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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/853,322      | 05/10/2001  | Lorenzo Casaccia     | PA010317            | 5931             |

23696 7590 08/03/2004

Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego, CA 92121-1714

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| EXAMINER |
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TORRES, MARCOS L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2683     | 10           |

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/853,322

Applicant(s)

CASACCIA ET AL.

Examiner

Marcos L Torres

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed May 27, 2004 have been fully considered but they are not persuasive.

Regarding applicant's argument that Siwko does not disclose a method of adjusting a call request block probability; Siwko discloses the call dropping probability factor in a calculation to determine call admission or blocking (see page 1151, col. 2, last paragraph) and also disclosed that the call blocking changes on depending on time (see page 1154, col. 1, last paragraph). The current rejection in record stands.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4, 8, 10, 14, 16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Siwko.

As to claims 1 and 2, Siwko discloses a communication system using a method for blocking call request comprising: receiving an initial call request block probability; determining an elapsed time from an effective time of said initial call request block

probability; adjusting said initial call request block probability based on said elapsed time (see sections II-IV).

As to claims 4, 10 and 16, Siwko discloses the method of receiving a time stamp associated with said initial call request block probability; using said time stamp for determining said elapsed time (see sections II-III).

Regarding claims 8 and 19, they are the corresponding apparatus claim of method claim 1. Therefore, claim 8 are rejected for the same reason shown above.

Regarding claim 14 is the corresponding system claim of method claim 1. Therefore, claim 14 are rejected for the same reason shown above.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 3, 6-7, 9, 12-13, 15, 18 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Siwko in view of Redden.

As to claims 7, 13 and 18, Siwko discloses everything claimed as explained above except for the method further comprising: receiving a time period value, wherein said adjusting occurs at least once during a time period substantially equal to said time period value. Redden discloses the method further comprising: receiving a time period value, wherein said adjusting occurs at least once during a time period substantially equal to said time period value (see page 12, lines 48-50). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Siwko system for the simple reason of automation.

As to claims 6 and 12, Siwko discloses everything claimed as explained above except for the method wherein said adjusted initial call request block probability allows fewer number of mobile stations to initiate call requests than a number of mobile stations allowed to initiate call requests at a time of said initial call request block probability. Redden discloses the method wherein said adjusted initial call request block probability allows fewer number of mobile stations to initiate call requests than a number

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of mobile stations allowed to initiate call requests at a time of said initial call request block probability (see page 13, lines 51-56). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention that if call request are going to be blocked the number of call request is going to decrease.

As to claims 3, 9, 15 and 20, Siwko discloses everything claimed as explained above except for the method further comprising: using said adjusted initial call request to block call request at a mobile station in said communication system. Redden discloses the method further comprising: using said adjusted initial call request to block call request at a mobile station in said communication system (see page 14, lines 4-22). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use this technique in the Siwko system for enhanced management of the communication resources.

8. Claims 5, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siwko in view of Weishaupt.

As to claims 5, 11 and 17, Siwko discloses everything claimed as explained above except for the method of receiving a call request block termination time; terminating a call request block performed based on said adjusted initial call request block probability in a gradual process from said effective call request block termination time. Redden discloses receiving a call request block termination time; terminating a call request block (see page 11, lines 43-46). Weishaupt disclose using a gradual process (see col. 1, lines 59-66). Therefore, it would have been obvious to one of the ordinary

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skill in the art at the time of the invention to combine these teachings in order to preserve the quality of service.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be mailed to:

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Or faxed to:

(703) 703-872-9306

For formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA  
Sixth Floor (Receptionist)


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcos L Torres  
Examiner  
Art Unit 2683

Mlt

  
WILLIAM TROST  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600